

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TODD JERNIGAN, on Behalf of Himself, all
Others Similarly Situated, and the General
Public,

Plaintiff,

v.

BEAM GLOBAL SPIRITS & WINE, INC. and
FORTUNE BRANDS, INC.,

Defendants.

Court No. 3:11 cv 00842 DRH-PMF

Judge David R. Herndon

Magistrate Judge Philip M. Frazier

**DEFENDANTS BEAM GLOBAL SPIRITS & WINE LLC'S, AND BEAM INC.'S
AGREED MOTION TO CONTINUE THE RULE 16(b) CONFERENCE**

Defendants, Beam Global Spirits & Wine LLC ("Beam Global"), formerly known as Beam Global Spirits & Wine, Inc., and Beam Inc., formerly known as Fortune Brands, Inc., (collectively "Defendants") move this Honorable Court to continue the Rule 16(b) Scheduling Conference. In further support of this motion, Defendants collectively state as follows:

1. Plaintiff filed his Class Action Complaint on September 16, 2011 against Defendants alleging that the labeling on the Skinnygirl Margarita brand was false or misleading. (Doc. No. 2).

2. Defendants have been served, appeared and filed their answer and affirmative defenses to Plaintiff's Complaint. (Doc. No. 10).

3. On December 8, 2011, the Court set a presumptive trial month of September 2013. Further, on December 13, 2011, the Court set a Rule 16(b) initial discovery scheduling hearing for January 13, 2012. (Doc. Nos. 18-20).

4. At the time of the Court's order scheduling the Rule 16(b) Conference, a motion by certain plaintiffs to transfer this case, along with eight other cases, for coordinated pre-trial proceedings was pending before the U. S. Judicial Panel on Multidistrict Litigation (the "Panel").

As a result, the focus of the parties up to that point was on answering and preparing for the MDL hearing. The Panel denied the motion to transfer on December 14, 2011.

5. Now that the Panel has issued its decision, there is much that needs to be completed prior to engaging in meaningful Rule 16 and Rule 26 conferences with the Court and opposing counsel.

6. Unfortunately, due to the holidays and previous commitments on other matters, the parties have not set a date to discuss the Rule 26(f) Joint Report. For these reasons, Defendants' counsel respectfully requests that the Court reset the Rule 16(b) Conference from January 13, 2012 until February 24, 2012. Correspondingly, the parties would meet-and-confer at least 21 days before the Conference and submit a Joint Report of the Parties and Proposed Scheduling Order at least 7 days before the Conference.

7. Beam Global has requested, and was recently granted similar relief in a similar case. *See Rapcinsky & Baker v. Skinnygirl Cocktails, L.L.C., et al*, case number 1:11-cv-06546-JPO pending in the Southern District of New York.

8. Defendants' counsel Christopher T. Sheean contacted Plaintiff's counsel's office to discuss whether they would agree to continue the initial discovery conferences. Plaintiff's counsel has confirmed that they are in agreement with the requested relief, and that this motion is presented as an agreed motion.

WHEREFORE, the Defendants, Beam Global and Beam Inc., respectfully request this Honorable Court to enter an order continuing the Rule 16(b) Discovery/Scheduling Conference until February 24, 2012, and any other relief this Court feels is just and necessary.

Respectfully Submitted,

By: /s/ Christopher T. Sheean
One of the attorneys for the Defendants
Beam Global Spirits & Wine, Inc. and
Fortune Brands, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2011, I electronically filed Defendants Beam Global Spirits & Wine LLC's and Beam Inc.'s Agreed Motion to Continue the Rule 16(b) Conference with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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By: /s/ Christopher T. Sheean
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